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OPEN MEETING AGENDA ITEM

BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

2008 APR 30 P 4:48

DOCKETED

APR 30 2008

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IN THE MATTER OF THE
APPLICATION OF ARIZONA
ELECTRIC POWER COOPERATIVE,
INC., FOR A RATE INCREASE.

DOCKET NO. E-01773A-04-0528

IN THE MATTER OF THE
APPLICATION OF SOUTHWEST
TRANSMISSION COOPERATIVE, INC.,
FOR A RATE INCREASE.

DOCKET NO. E-04100A-04-0527

**SSVEC'S COMMENTS REGARDING
THE PROPOSED ORDER IN THE
MATTER OF AEPCO'S REQUEST
FOR REVIEW OF FPPCA EFFICACY
AND IMPLEMENTATION OF
ALTERNATIVE ADJUSTOR RATES**

On April 22, 2008, the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") filed its Staff Report and Proposed Order regarding Arizona Electric Power Cooperative's ("AEPCO") February 29, 2008, Request for Review of FPPCA¹ Efficacy and Implementation of Alternative Adjustor Rates ("AEPCO Request") in the above-referenced dockets.² Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC"), through counsel undersigned, hereby submits the following comments relating to the Proposed Order.

I. BACKGROUND

On February 29, 2008, the AEPCO Request was filed pursuant to Commission Decision No. 68071 dated August 17, 2005 ("Decision"). On March 28, 2008, SSVEC

¹ Fuel and Purchased Power Cost Adjustment ("FPPCA").

² AEPCO amended its filing on March 28, 2008, to correct a data entry error concerning the bank balances.

1 filed a Response ("Initial Response") to AEPCO's Request. In its Initial Response,
2 SSVEC supported (and still supports) the AEPCO's Request but requested that as part of
3 its Order granting the AEPCO Request, the Commission require AEPCO (as part of its
4 next semi-annual filing) to revise and true-up its methodology to fairly allocate the fuel
5 and purchased power costs to the members of the class of Partial Requirements Members
6 ("PRMs") and the members of the class of All Requirements Members ("ARMs")
7 consistent with actual fuel and purchased power expenses attributable to the members,
8 thereby eliminating cross-subsidies that currently exist as a result of the methodology that
9 AEPCO uses.³ On April 4, 2008, AEPCO filed a Reply ("AEPCO Reply") to SSVEC's
10 Initial Response. The AEPCO Reply opposed SSVEC's request to implement a different
11 methodology that assigned cost responsibility among its members prior to the next rate
12 case. On April 8, 2008, SSVEC filed a response ("Second Response") to the AEPCO
13 Reply. In its Second Response, SSVEC stated, in part, that it is not necessary or
14 appropriate for SSVEC and its ratepayers to have to wait until the conclusion of the next
15 rate case before AEPCO allocates costs between its members consistent with actual fuel
16 and purchased power expenses attributable to the respective members and classes and that
17 such change in allocation was contemplated by the Decision when the Commission
18 established the FPPCA. On April 15, 2008, AEPCO replied to SSVEC's Second
19 Response.

20 On April 22, 2008, the Staff filed its Staff Report and Proposed Order
21 recommending approval of the AEPCO Request. Regarding the issues raised by SSVEC
22 and MEC, Finding of Fact No. 44 of the Proposed Order states the following:

23 Staff further believes that the concerns brought forward by
24 SSVEC and Mohave deserve a full and comprehensive
review by all parties that have an interest in AEPCO's

25 ³ On April 1, 2008, Mohave Electric Cooperative, Inc. ("Mohave") also filed a response to the AEPCO
26 request that raised similar issues.

1 FPPCA. Staff is concerned that issues under question strike
2 at some of the basic underlying principles of AEPCO's
3 FPPCA methodology. If problems are found, potential
4 solutions could require major changes to the adjustor
5 mechanism and could result in shifting potentially millions of
6 dollars from one class of membership to the other class of
7 membership. AEPCO is required by Decision No. 68071,
8 August 17, 2005, to file a rate case six months after SSVEC
has completed a full calendar year as a partial-requirements
member, or not later than five years after the effective date of
Decision No. 68071, whichever is earlier. This would
suggest that AEPCO must file a rate case by July 1, 2009.
Staff believes the issues brought up by SSVEC and Mohave
could more appropriately be addressed in a rate case in which
all interested parties could participate.

9 **II. AEPCO IS NOT PROPERLY OR FAIRLY ALLOCATING COSTS**
10 **BETWEEN THE MEMBER CLASSES**

11 Although SSVEC supports approval of the AEPCO Request, SSVEC continues to
12 take the position that AEPCO's proposed allocations of fuel and purchased power costs
13 underlying the FPPCA rates are not reasonable and appropriate for the two rate classes.
14 SSVEC believes that the single adjustment⁴ made by AEPCO to account for the difference
15 between fuel and purchased power costs for ARMs and PRMs is somewhat arbitrary and
16 that additional work should be required by the time of the next semi-annual filing to
17 adequately and reasonably assign fuel and purchased power costs to the two rate classes.
18 The AEPCO Request does not include any information that demonstrates that this one and
19 only adjustment that is proposed is a reasonable and appropriate method for differentiating
20 the fuel and purchased power costs between the two rate classes. It is the only difference
21 between the two factors, and it is not explained in the filing.

22 The one and only reason for the Commission to establish separate adjustor rates for
23 each class was for the purpose of excluding power costs *completely* attributable to the
24 ARM class as evidenced by the Panda Gila River purchase power agreement ("Panda

25 _____
26 ⁴ See State 2 Member Fuel Cost column on page 3 of Exhibit A of AEPCO's Request.

1 Contract").⁵ Moreover, it appears that the allocation methodology that AEPCO is using
2 may even be inconsistent with Staff's understanding of the way the allocation
3 methodology is intended to operate for each class. On page 4 of the Staff Report, Staff
4 sets forth its understanding of the how the semi-annual adjustor calculation is intended to
5 operate:

6 AEPCO's semi-annual adjustor rate calculation for its ARM class of
7 customers and for PRM class of customers consists of two parts. The
8 Power Cost ("PC") component consists of the Commission-allowed fuel,
9 purchased power, and wheeling costs in dollars per kWh rounded to the
10 nearest one-thousandth of a cent (\$0.00001). This component is based on
11 a rolling historical 12 months of fuel, purchased power, and wheeling
12 costs for each class divided by the kWh energy sales to the same class
13 during the same 12 months. The Bank Account ("BA") component of the
14 adjustor rate consists of over-collected or under-collected allowable
15 accumulated fuel and purchased energy costs in dollars per kWh, rounded
16 to the nearest one-thousandth of a cent (\$0.00001). This component of the
17 adjustor rate for the ARMs and the PRMs consists of the under-recovered
18 or over-recovered bank balance dollars divided by the same 12-months
19 kWh energy sales figure that was used in the PC component. The adjustor
20 rate for the ARM class and for the PRM class are calculated by adding the
21 PC and the BA components for the respective class, and subtracting the
22 respective base cost of purchased power. (Emphasis added.)

23 Implicit in the existing methodology is the requirement for AEPCO to properly
24 allocate fuel and purchased power costs attributable to each member class *before*
25 averaging the costs for each class. With the exception of costs attributable to the Panda
26 Contract, AEPCO is simply averaging all other costs when it is fully aware that some of
those costs are only attributable to, and only benefit, the ARM class. AEPCO incurs costs
related to natural gas purchases for its units to serve peak load in the summer months,

⁵ Mohave, the only PRM at the time, did not participate in the Panda Contract that expired in 2007. Accordingly, those costs were excluded from the base cost of power calculation for MEC, which is why this rate was lower for the PRM class. What is important to note, however, is at the time SSVEC negotiated its partial requirements contract with AEPCO (which was approved by the Commission at the end of last year), AEPCO insisted on language in the contract that provided that if SSVEC became a PRM prior to the expiration of the Panda Contract, SSVEC would still be required to continue to pay its allocation of Panda Contract costs as if it was still an ARM. This was to ensure that costs incurred by AEPCO for the ARMs would remain the responsibility of that ARM, even if that member subsequently became a PRM.

1 when SSVEC will purchase much of its peak power on its own. While the ARMs will
2 take 100% of their power from AEPCO, the PRMs will take far less than 100%. AEPCO
3 averages the higher priced natural gas fuel used primarily by the ARMs with other
4 AEPCO fuel costs and allocates these costs to the PRMs thereby causing the PRMs to pay
5 costs relating to power they do not take. Said another way, AEPCO is allocating higher
6 natural gas fuel costs to the PRMs when the PRMs are scheduling primarily lower-cost,
7 coal-generated power.

8 AEPCO's own estimate is that it will spend close to \$14 million for gas and
9 purchased power for its members in 2008. However, these expenditures primarily benefit
10 the ARMs and not the PRMs. Under AEPCO's current allocation method, this will result
11 in over \$4 million of gas and purchased power costs being allocated to SSVEC in 2008
12 alone. If this matter is delayed until the conclusion of AEPCO's next rate case, SSVEC's
13 ratepayers could be paying as much as \$10 million to \$15 million for AEPCO's gas and
14 purchased power costs that were incurred for the benefit of customers of other AEPCO
15 members.⁶

16 AEPCO has (or will) entered into contracts to supply the ARMs with high-cost
17 peaking power for this coming summer. Despite AEPCO's assertion that it is unable to
18 track the expenses associated with those contracts, AEPCO does currently have the ability
19 to track these costs (at least on a monthly basis) and should have in its possession much of
20 the allocation data it needs to calculate these costs on an hourly basis, although allocation
21 on an hourly basis is not needed to properly allocate gas and ARM purchased power costs
22 directly to the ARM class.⁷ Yet, under the cost methodology that AEPCO utilizes to
23 allocate the costs to the member classes, SSVEC will be allocated expenses and required

24 ⁶ This dollar amount could be even higher if natural gas prices increase.

25 ⁷ SSVEC is aware that AEPCO has the detailed information available for its monthly billing of its energy
26 costs to the PRMs. Additionally, it should already have much of the allocation data it needs on an hourly
basis, including generation schedules and the schedules of power delivered to the PRMs.

1 to pay costs associated with these high-cost gas contracts for which SSVEC derives no
2 benefit. This is inconsistent with the intent of the Decision for the separation of costs
3 between the ARMs and PRMs.⁸ It is also inconsistent with the very reason why AEPCO
4 and its members decided to allow members the flexibility to become PRMs.

5 Consequently, AEPCO's continued application of the current methodology will
6 result in SSVEC and its ratepayers paying millions of extra dollars over time by way of
7 this inherent subsidy to the ARMs.

8 **III. THE ISSUES RAISED BY SSVEC NEED TO BE RESOLVED**
9 **EXPEDITIOUSLY AND NOT BE DEFERRED UNTIL THE NEXT AEPCO**
10 **RATE CASE**

11 Although Staff has acknowledged that the issues raised by SSVEC "strike at some
12 of the basic underlying principles of AEPCO's FPPCA methodology . . . [and] could
13 require major changes to the adjustor mechanism and could result in shifting potentially
14 millions of dollars from one class of membership to the other," Staff is recommending
15 that the matter be deferred until the next AEPCO rate case that is scheduled to be filed by
16 July 1, 2009. SSVEC strongly believes that given the importance of this issue, as well as
17 the potential millions of extra dollars that SSVEC and its ratepayers will likely have to
18 pay until the conclusion of the AEPCO rate proceeding, which will be at least two to three
19 years from now, the Commission should resolve this matter sooner rather than later.
20 Given the utility and ratepayer impacts alleged by SSVEC, if AEPCO was not scheduled
21 to file a rate case next year, SSVEC asserts that the Commission would most likely
22 proceed to address this issue in the near term in order to resolve the matter as quickly as
23 possible. The fact that a rate case will be filed some time in the future should not form the

24 ⁸ Implicit in AEPCO's position is that the creation of separate FPPCA rates for each class was only for the
25 purpose of addressing the Panda Contract. If that was true, upon expiration of the Panda Contract, there
26 would only be a need for one FPPCA rate since AEPCO is simply averaging and allocating all costs,
regardless of the fact that some of those costs are incurred only for the benefit of one member class.

1 basis to delay resolution of this important matter for two to three years.

2 In authorizing the FPPCA, the Commission stated in the Decision:

3 [w]e recognize that the FPPCA is intended to allow timely recovery of fuel
4 and purchased power costs, or to allow the refund of any decreases,
5 *without the time and expense of a full rate proceeding.* (Emphasis added.)⁹

6 Additionally, the Decision provided that:¹⁰

- 7 • The Commission or Staff will have the right to review the
8 prudence of fuel and power purchases at any time;
- 9 • The Commission or Staff will have the right to review
10 any calculations associated with the FPPCA at any
11 time; and
- 12 • Any costs flowed through the FPPCA are subject to
13 refund if the Commission determined that the costs are
14 imprudent.

15 It is clear from the above that the Commission expressly intended that it was going
16 to closely monitor the FPPCA and could order modifications without the need for waiting
17 for a full rate case proceeding. Additionally, by establishing separate FPPCA adjustors
18 for the PRM and ARM classes to reflect the different fuel and purchased power costs
19 attributable to such classes in the first place, as well as the right that the Commission
20 expressly reserved "to review any calculations associated with the FPPCA at any time,"
21 the Commission has the ability to require AEPCO to properly allocate fuel and purchased
22 power costs between the PRM and the ARM classes at any time.

23 **IV. SSVEC REQUESTED RELIEF**

24 SSVEC still supports the approval of the AEPCO Request. However, SSVEC
25 believes that it is unfair for SSVEC and its ratepayers to be required to wait at least two to
26 three years for the conclusion of the next AEPCO rate case when, pursuant to the

⁹ See Decision at Finding of Fact No. 36.

¹⁰ See Decision at Finding of Fact No. 35.

1 Decision, the Commission has retained the authority to order SSVEC's requested relief.
2 Therefore, SSVEC requests that the Proposed Order be amended to provide that the
3 AEPCO FPPCA be subject to true-up to April 1, 2008, and further order that as part of its
4 September 1, 2008, filing for the October 1, 2008 to April 1, 2009 semi-annual periods,
5 AEPCO should file: i) a fully detailed methodology that fairly and appropriately allocates
6 fuel and purchased power costs between the individual members of the PRMs and
7 individual members of the ARMs consistent with actual fuel and purchased power
8 expenses attributable to the respective members and classes and ii) true-up calculations
9 adjusting the fuel bank account as if the above methodology had been in effect on April 1,
10 2008. Additionally, SSVEC should be allowed to directly participate in the review of the
11 methodology. Following AEPCO's filing, all other interested parties would have a chance
12 to provide input before the Commission would approve new FPPCA rates.¹¹

13 In the event the Commission does not grant the above-requested relief and
14 determines that the matter will be deferred until the 2009 AEPCO rate case, SSVEC is
15 concerned that the potential millions of dollars at issue are dollars that rightfully belong to
16 SSVEC and its ratepayers. Although the Proposed Order recommends deferral of the
17 issue until the next rate case, there is nothing in the Proposed Order that requires AEPCO
18 to track the fuel and purchased power expenses from April 1, 2008, until the conclusion of
19 the rate case (in the event the Commission orders a true-up) nor is there any requirement
20 in the Proposed Order that requires AEPCO to propose the alternative methodology
21 suggested by SSVEC as part of its rate case filing. Accordingly, SSVEC requests that the
22 Proposed Order be amended to ensure that the PRMs are protected to require AEPCO to
23 file as part of its 2009 rate case filing: i) a fully detailed methodology that fairly and
24 appropriately allocates fuel and purchased power costs between the individual members of

25 ¹¹ For the convenience of the Commission, SSVEC has proposed amendment language in Attachment A.
26

1 the PRMs and individual members of the ARMs consistent with actual fuel and purchased
2 power expenses attributable to the respective members and classes and ii) true-up
3 calculations adjusting the fuel bank account as if the above methodology had been in
4 effect on April 1, 2008.¹²

5 Finally, the AEPCO Reply states:

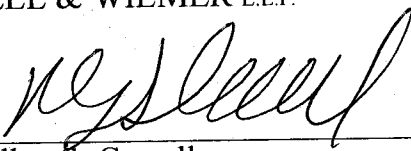
6 AEPCO's Board has authorized the money to develop a
7 system which would allow AEPCO to track that more specific
8 cost, resource, and attribution information. The development
9 of that system is currently underway. However, the soonest
10 the system is expected to be online is the first quarter of 2009.
11 While it is hoped that it will be capable of developing data
12 not only on a real time, but also on a historic period (such as
13 calendar year 2008) basis, AEPCO is not certain that will be
14 the case.¹³

15 SSVEC requests that the Proposed Order be amended to require AEPCO to
16 diligently move forward with the development of its system to ensure that it is available
17 as soon as possible. Additionally, AEPCO should file a status report on the development
18 of the system with its next semi-annual filing.¹⁴

19 RESPECTFULLY SUBMITTED this 30th day of April, 2008.

20 SNELL & WILMER L.L.P.

21 By

22 
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24 Jeffrey W. Crockett
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¹² For the convenience of the Commission, SSVEC has proposed amendment language in Attachment B.

¹³ AEPCO Reply at page 6.

¹⁴ For the convenience of the Commission, SSVEC has proposed amendment language in Attachment B.

1 ORIGINAL and 15 copies filed
2 this 30th day of April, 2008, with:
3 Docket Control
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1200 West Washington
Phoenix, Arizona 85007
5 COPIES of the foregoing hand-delivered
6 this 30th day of April, 2008, to:
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20 Copy of the foregoing sent via E-Mail and
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By 

ATTACHMENT AProposed AmendmentFinding of Fact No. 44

Page 14, line 9, DELETE from "AEPCO is required . . ." through the end of the paragraph and INSERT the following:

"Although pursuant to the requirements of Decision No. 68071, AEPCO must file a rate case by July 1, 2009, these potential problems with the FPCCA identified by SSVEC and MEC should not wait until the conclusion of that rate proceeding to be addressed. As AEPCO is already required pursuant to Decision No. 68071 to file another revised semi-annual report and FPCCA tariff on September 1, 2008, AEPCO should file: i) a fully detailed methodology that fairly and appropriately allocates fuel and purchased power costs between the individual members of the PRMs and individual members of the ARMs consistent with actual fuel and purchased power expenses attributable to the respective members and classes and ii) true-up calculations adjusting the fuel bank account as if the above methodology had been in effect on April 1, 2008. Additionally, all affected parties should be allowed to directly participate in the review of the revised methodology.

Order

INSERT the following additional ordering paragraphs on page 15, line 6:

"IT IS FURTHER ORDERED that as part of its September 1, 2008, semi-annual filing, AEPCO shall file: i) a fully detailed methodology that fairly and appropriately allocates fuel and purchased power costs between the individual members of the PRMs and individual members of the ARMs consistent with actual fuel and purchased power expenses attributable to the respective members and classes and ii) true-up calculations adjusting the fuel bank account as if the above methodology had been in effect on April 1, 2008. Additionally, all affected parties shall be allowed to directly participate in the review of the revised methodology.

ATTACHMENT BProposed AmendmentFinding of Fact No. 44

At the end of the paragraph on page 14, line 14, INSERT the following: "Accordingly, AEPCO should file as part of its next rate case: i) a fully detailed methodology that fairly and appropriately allocates fuel and purchased power costs between the individual members of the PRMs and individual members of the ARMs consistent with actual fuel and purchased power expenses attributable to the respective members and classes and ii) true-up calculations adjusting the fuel bank account as if the above methodology had been in effect on April 1, 2008. Additionally, AEPCO should continue to develop a system which would allow AEPCO to track fuel and purchased power costs so that such costs may be properly allocated between the PRM and ARM classes AEPCO and should file a status report on the development of the system with its next semi-annual filing."

Order

INSERT the following additional ordering paragraphs on page 15, line 6:

"IT IS FURTHER ORDERED that AEPCO shall file as part of its next rate case: i) a fully detailed methodology that fairly and appropriately allocates fuel and purchased power costs between the individual members of the PRMs and individual members of the ARMs consistent with actual fuel and purchased power expenses attributable to the respective members and classes and ii) true-up calculations adjusting the fuel bank account as if the above methodology had been in effect on April 1, 2008.

IT IS FURTHER ORDERED that AEPCO shall continue to develop a system which would allow AEPCO to track fuel and purchased power costs so that such costs may be properly allocated between the PRM and ARM classes and should file a status report on the development of the system with its next semi-annual filing."